

25. The barrier implement of claim 21, further comprising:
a utility plate for covering the passageway in the wall, the sheet placed adjacent to one side of the utility plate. --.

REMARKS

Favorable consideration of this application is respectfully requested. Applicant has rewritten claims 1, 21, 22, 23 added new claims 24-25. Favorable reconsideration of this application is, consequently, earnestly solicited in view of the following remarks. Favorable consideration of this application is respectfully requested in view of the following remarks.

The specification has been objected to with the statement that "It is not clear from the disclosure what constitutes the (arthropod deterring) component, as this appears to be something other than the sheet." Applicants respectfully disagree with this objection for the following reasons. First, this is the first time that this "objection" has been raised since applicant has previously responded to TWO PREVIOUS OFFICE ACTIONS which did not raise this objection. Secondly, the subject specification details the exact phrase "arthropod deterring component" in MANY LOCATIONS such as on page 3, lines 1 and 6. Third, the subject application clearly identifies the "arthropod deterring component can be molded" page 4, line 29, and the "arthropod deterring component....can be molded directly in the barrier material, or it can be applied to the surface by painting it on or by inserting or installing a cartridge thereon....the component is a pesticide such as permetherin which can be molded directly in the sheet....applied to or molded directly in the barrier material composition....(can be) a slippery substance, such as...Teflon coating or petroleum jelly....", page 5, lines 10-19. Clearly, the specification has clear antecedent bases for this phrase. Thus, removal of this objection is respectfully requested.

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Claims 1, 6, 7, 21 and 22 were rejected under sec. 112, second paragraph as being indefinite for the phrase "arthropod deterring component" and that the "passageway is not sized; therefore, the sheet cannot be sized relative to it." Applicants again disagree that the phrase "arthropod deterring component" is indefinite.

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Again, in two previous office actions, there has been NO reference to this phrase as being indefinite. Again, this phrase "arthropod deterring component" has been described in MANY

LOCATIONS of the specification such as on page 3, lines 1 and 6. The subject application clearly identifies the "arthropod deterring component can be molded" page 4, line 29, and the "arthropod deterring component....can be molded directly in the barrier material, or it can be applied to the surface by painting it on or by inserting or installing a cartridge thereon....the component is a pesticide such as permetherin which can be molded directly in the sheet....applied to or molded directly in the barrier material composition....(can be) a slippery substance, such as...Teflon coating or petroleum jelly....", page 5, lines 10-19. Clearly, the specification has clear antecedent bases for this phrase. Thus, removal of this rejection that this phrase is indefinite is respectfully requested.

Furthermore, applicant directs the examiner to a recent U.S. Patent 6,505,433 also to the same assignee as the subject invention(University of Florida) with one of the same inventors(Ernie Roberts) which also claims the same phrase "arthropod deterring component" in all of its' claims. Applicant directs the examiner to MPEP section 706.04 which states that "Full faith and credit should be given to the ... action of a previous examiner unless there is clear error in the previous action or knowledge of other prior art..." The examiner of U.S. Patent 6,505,433 found NO PROBLEMS WITH THE SAME PHRASE, and the Examiner of the subject application has never brought up this problem in TWO PREVIOUS OFFICE ACTIONS. Thus, removal of this rejection of the phrase as being indefinite is respectfully requested.

Claims 1, 6, 7, and 9-11 were rejected under sec. 102b as being anticipated by Sharples '587. Claims 2-7 were rejected under sec. 103 as being obvious over Sharples '587. Applicant directs the examiner's attention to the fact that the Sharples '587 patent was filed for on MARCH 6, 2001, while the subject application was filed for on DECEMBER 28, 2000 several months before SHARPLES '587. Thus, Sharples '587 IS NOT AVAILABLE AS PRIOR ART UNDER EITHER SEC. 102b NOR UNDER SEC. 103 SINCE THE SUBJECT APPLICATION WAS FILED AS A UTILITY APPLICATION BEFORE SHARPLES '587.

In addition Applicant previously submitted SWEAR BEHIND 37CFR 1.131 DECLARATIONS ON APRIL 17, 2002 WHICH FURTHER SHOW REDUCTION TO PRACTICE WELL BEFORE THE 12/28/2000 FILING DATE OF THE SUBJECT APPLICATION. Thus, removal of the rejection over Sharples is respectfully requested.

Claims 21-23 were rejected under sec. 102b as being anticipated by Manak. The Manak reference describes a "PLASTIC TREE BAND", title, and has nothing to do with "utility plates"

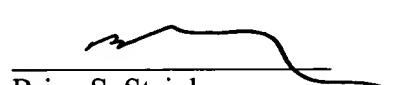
for "walls" nor for use with "passageways" about "pipes" as is claimed in the subject application. Thus, removal of the Manak reference is respectfully requested.

Applicant reminds the examiner that in the previous office action mailed July 3, 2002, the same examiner indicated that claims 13-15 were allowable and states that "Claim 13 is allowable for a shield. Claim 14 is allowable for a flange. Claim 15 is allowable for a sheet configured in an O-shape." If any more rejections of the subject claims are made, applicant respectfully requests the examiner point out why these previously referenced allowed features are NO LONGER ALLOWABLE. Applicant notes that subject claims 21-23, and also claims 24-25 are intended to refer to these novel features that were previously indicated by the examiner to be allowable over the MANAK reference.

Applicant contends the references cannot be modified to incorporate the features of subject claims 1-7, 9-11 and 21-25 without utilizing Applicant's disclosure. The courts have consistently held that obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, incentive or motivation supporting the combination. In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

In view of the foregoing considerations, it is respectfully urged that the subject amendment be entered and claims 1-7, 9-11 and 21-25 be allowed. Such action is respectfully requested. If the Examiner believes that an interview would be helpful, the Examiner is requested to contact the attorney at the below listed number.

Respectfully Submitted;



Brian S. Steinberger
Registration No. 36,423
101 Brevard Avenue
Cocoa, Florida 32922
Telephone: (321) 633-5080

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